

DATE STAMP AND RETURN

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FILED/ACCEPTED

SEP 30 2011

Federal Communications Commission
Office of the Secretary

Request for Waiver of Section)
64.1601(b) of the Rule – Blocked)
Telephone Numbers)

PETITION FOR WAIVER OF CHEVRAH HATZALAH VOLUNTEER AMBULANCE CORPS INC.

I. INTRODUCTION

Pursuant to Section 1.3 of the Commission's rules, Chevrah Hatzalah Volunteer Ambulance Corps, Inc. ("Hatzalah") respectfully requests a limited waiver of Section 64.1601(b) of the rules governing the transmission of calling party numbers ("CPNs") by carriers on the terminating end of a call. Hatzalah requests a waiver so that carriers may transmit to it the restricted CPNs of callers to Hatzalah's emergency services telephone number.

II. BACKGROUND

Hatzalah, a non-profit corporation, is the largest all-volunteer ambulance service in the United States, providing premium quality pre-hospital emergency medical treatment and transportation at no cost to all who need it. Hatzalah, which was founded in New York City in 1965, has become a model for similar rescue and ambulance services throughout the world. Hatzalah has over 70 ambulances in operation throughout the greater New York metropolitan area and in counties throughout New York State, with over one thousand volunteer emergency medical technicians ("EMTs") and 180 paramedics, plus physician assistants and doctors on call 24 hours a day, 7 days a week, 365 days a year. The organization's first responders typically arrive on scene within two to four minutes of receiving a call, significantly faster than the nine

minute average response from 911 dispatched services. This response time largely accounts for Hatzalah's success and popularity, responding to over 50,000 medical emergency calls per year.

Hatzalah has developed its own state-of-the-art computer-aided dispatch system – HCAD (Hatzalah Computer Aided Dispatch) – which provides specially trained Hatzalah dispatchers with vital technical assistance, including instant caller identification and location for calls it receives from wireline customers of Verizon, the incumbent local exchange carrier (“ILEC”) covering the area where Hatzalah provides services. HCAD computers are able to access to the Automatic Location Identification (“ALI”) database to match incoming Verizon wireline telephone numbers with its corresponding customer name and street address, along with any other available information. HCAD then uses a computerized digital map tracking system to locate the closest units and ambulance. This automatic data retrieval system eliminates the need for the human dispatcher to obtain contact information from the caller, who is likely to be under tremendous stress resulting from the emergency that prompted the call.

Unfortunately, this extremely efficient emergency dispatch system is stymied when the incoming call comes from a subscriber that has requested that his or her number be “blocked” – not revealed to the called party – and is particularly problematic when the call is initiated from a wireless caller. Under Section 64.1601(b), “Carriers must arrange their CPN-based services, and billing practices, in such a manner that when a caller requests that the CPN not be passed, a carrier may not reveal that caller's number or name, nor may the carrier use the number or name to allow the called party to contact the calling party.” The regulation contains an exemption for CPN delivery to public service answering points (“PSAPs”) that provide 911 emergency

services.^{1/} While Hatzalah performs many of the functions of a PSAP, it is a private not-for-profit entity. Accordingly, it does not qualify for the PSAP exemption despite the fact that it functions in the capacity of a PSAP.

The inability to automatically identify callers creates several problems that can delay or even prevent the timely response of emergency care. Even under the best circumstances, response time is delayed by crucial seconds when a dispatcher must request a caller's phone number. Moreover, callers are likely to be under tremendous stress, which makes communication more difficult. When Hatzalah knows the telephone number of a calling party (*i.e.*, when a CPN is unblocked), its dispatcher can, without asking for the caller's number, immediately return a call if the original caller is disconnected for any reason. This benefit is lost when CPN is blocked, which means that the dispatcher must also take time during the call to ask for and record the caller's number so that it can be dialed manually in the event of a disconnection.

For wireline calls, Hatzalah is able to obtain ALI information from Verizon and can dispatch an ambulance to the calling party even if Hatzalah does not have the calling party's number because the number is blocked. However, having the call party's number would enable Hatzalah to re-contact a caller to obtain additional information and provide the caller with instructions while help is on the way. The need for CPN for wireless calls is more critical. For wireless calls, Hatzalah receives no location information. Therefore, it must rely on obtaining location information from callers in distress. For unblocked calls, Hatzalah is able to re-connect with callers if necessary to secure additional location information or assistance before its

^{1/} 47 CFR § 64.1601(d)(4)(ii). "Section 64.1601(a) and (b) shall not apply when CPN delivery is used on a public agency's emergency telephone line or in conjunction with 911 emergency services, or on any entity's emergency assistance poison control telephone line."

volunteers arrive. However, if Hatzalah is unable to return an emergency call, and it has been unable to receive sufficient location information from a caller, Hatzalah may be unable to respond to the emergency call at all, with disastrous consequences. Even if it accurately captures location information during the initial wireless call, without caller information, it cannot return a phone call to provide additional assistance or request additional information before its volunteers arrive on the scene.

III. GRANT OF A WAIVER IS APPROPRIATE IN THIS INSTANCE

The FCC has authority to waive its rules if there is “good cause” to do so and may exercise its discretion to waive a rule where particular facts would make strict compliance inconsistent with the public interest.^{2/} Waiver is appropriate when: (1) the requested deviation would better serve the public interest than would strict adherence to the rule; and (2) special circumstances, including considerations of hardship, equity, or more effective implementation of overall policy, warrant a deviation from the rule.^{3/}

The purpose of Section 64.1601(b), which prohibits carriers from revealing a caller’s number or name or to allow the called party to return a call to the original calling party, is to allow “the calling public to exercis[e] a measure of control over the dissemination of telephone numbers.”^{4/} Yet the Commission has historically recognized the potential public safety implications inherent in the rule and in its Notice of Proposed Rulemaking specifically sought comments on “whether blocking mechanisms jeopardize other policies such as calling party

^{2/} 47 C.F.R. § 1.3; *Northeast Cellular Tel. Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

^{3/} *In the Matter of INSIGHT 100 Petition for Waiver of §64.1601(b) Regarding the Transmission of Calling Party Number*, CC Docket No. 91-281, Memorandum Opinion and Order ¶ 7 (2002) (“*INSIGHT 100*”) (citing *Northeast Cellular Tel. Co.*, 897 F.2d at 1166).

^{4/} *INSIGHT 100* ¶ 8, citing *Rules and Policies Regarding Calling Number Identification Service – Caller ID* (Report and Order and FNPRM), 9 FCC Rcd 1764, ¶ 34 (1994) (“1994 Order”).

identification by emergency services.”^{5/} In its rulemaking, the Commission explicitly addressed the concern that “blocking mechanisms may jeopardize emergency services which rely on caller ID and thus pose a serious threat to public health and safety,” by adopting an exemption from privacy requirements for the delivery of CPN to a “public agency’s emergency line, a poison control line, or in conjunction with 911 emergency services.”^{6/}

As the Commission observed, “blocking mechanisms may jeopardize emergency services which rely on caller ID and thus pose a serious threat to public health and safety.”^{7/} While the Commission addressed the impact on public emergency services when it adopted Section 64.1601(d)(4)(ii) of the rules, it did not contemplate at the time that private organizations could provide the same services, and have the same needs, as those contemplated by Section 64.1601(d)(4)(ii). However, Hatzalah’s needs are the same as those of public safety entities and the Commission should waive its rules so that Hatzalah can have the same access to CPN as those entities.

The waiver requested by Hatzalah satisfies the established standards. The public interest is better served by granting the waiver than by continuing to restrict Hatzalah’s ability to identify emergency callers. The ability to quickly and accurately identify and locate callers is paramount to the mission of emergency service providers, and strict adherence to the general rule in this case runs directly counter to the public’s interest in receiving life-saving medical attention in a timely manner. While telephone subscribers who elect call blocking have chosen to “control dissemination” of their telephone number, they should not be deemed to have made that election

^{5/} In the Matter of Rules and Policies Regarding Calling Number Identification Service, CC Docket No. 91-300, Notice of Proposed Rulemaking ¶ 21, 6 FCC Rcd. 6752, 6757 (1991). (“1991 NPRM”)

^{6/} 1994 Order ¶ 37.

^{7/} *Id.*

when they call Hatzalah's emergency services number. In that case, the public interest dictates that a caller's safety (which the caller has acknowledged is jeopardized by dialing Hatzalah's number) should supersede the caller's interest in limiting dissemination of his or her telephone number.

Beyond aiding the rapid deployment of emergency medical attention, the services that Hatzalah offers promote the public interest both by easing the burden on public agencies that operate 911 dispatched emergency services, and by allowing the public to make personal choices about their emergency care. Hatzalah works cooperatively with state and local government officials and is able to relieve some of the burden experienced by those entities. Particularly when state and local public safety budgets are being slashed, it is critical that Hatzalah have all the tools necessary to successfully complement the critical services provided by public safety entities. Grant of the requested waiver will enable Hatzalah to continue to relieve the burden experienced by public sector entities.

Second, deviation from the rule in this case will lead to a more effective implementation of overall policy promoting the availability of emergency services. In its Memorandum and Order granting limited waiver to INSIGHT 100, the Commission noted that "petitioners are providers of precisely the emergency services contemplated by the Commission's *1994 Order*."^{8/} That is equally true in the case of Hatzalah, whose entire mission is to provide emergency services.

While the rule is designed to ensure privacy for callers that choose CPN blocking, waiver of the rule would not frustrate its purpose here. The Commission has previously recognized that

^{8/} 1994 Order ¶ 11.

a calling party's privacy interest should not interfere with the delivery of valuable 911 services.^{9/}

When a seeking emergency attention, the notion of privacy is, in fact, objectively detrimental to the caller, who has a clear interest in being located and re-contacted as quickly as possible by emergency personnel. The same is true of Hatzalah's service. When someone calls Hatzalah's emergency number, it is for one purpose – to obtain emergency services. He or she has the same interest in Hatzalah being able to re-connect with them in the event Hatzalah's emergency services so require.

Finally, the scope of the requested waiver is narrowly tailored to serve a specific public interest already identified by the Commission. The waiver would apply only to Hatzalah - a private sector not-for-profit organization that is licensed by the state to provide no-cost emergency services to the public. The waiver would apply only to calls made to Hatzalah's dedicated emergency telephone lines, and Hatzalah is willing and able to comply with the protocol for handling private information established by the Commission's when it granted waiver to INSIGHT 100.^{10/}

IV. CONCLUSION

Granting the instant *Petition* will serve the public interest by helping to ensure the health and safety of individuals in need of immediate emergency care without compromising the privacy of the calling public. The Commission has already recognized that caller identification is crucial in providing emergency services. Hatzalah asks only that the Commission extend this

^{9/} 1991 NPRM ¶ 35 (“that this Commission should establish a federal model for interstate caller ID; that the federal model should recognize privacy interests of both the called and the calling party [and] that it should do so efficiently and without interfering with other valuable services (such as 911) ...”)

^{10/} See 1994 Order ¶¶ 12-14.

principle beyond the narrow confines of the existing exemption and recognize the important role already being served by private agencies in protecting public health and safety.

Respectfully submitted,

Russell H. Fox cc

Russell H. Fox

Ernest C. Cooper

Mary Lovejoy

MINTZ, LEVIN, COHN, FERRIS,

GLOVSKY AND POPEO, P.C.

701 Pennsylvania Ave., N.W.

Washington, D.C. 20004

(202) 434-7300

September 30, 2011